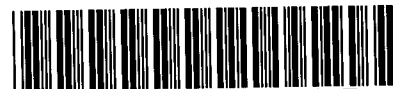


ORIGINAL



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MEMORANDUM

30

TO: Docket Control Center

FROM: Ernest G. Johnson  
Director  
Utilities Division

DATE: April 3, 2006

RE: JOHNSON UTILITIES, L.L.C. DBA JOHNSON UTILITIES COMPANY -  
APPLICATION FOR AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY (DOCKET NO. WS-02987A-05-0695)

Attached is the Staff Report for Johnson Utilities, L.L.C. dba Johnson Utilities Company.  
Staff recommends approval with conditions for compliance.

EGJ:LAJ:red

Originator: Linda A. Jaress

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Service List for: Johnson Utilities, L.L.C. dba Johnson Utilities Company  
Docket No. WS-02987A-05-0695

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

JOHNSON UTILITIES, L.L.C.  
DBA JOHNSON UTILITIES COMPANY

DOCKET NO. WS-02987A-05-0695

APPLICATION FOR AN EXTENSION OF ITS  
CERTIFICATE OF CONVENIENCE AND NECESSITY

APRIL 3, 2006

**EXECUTIVE SUMMARY**  
**JOHNSON UTILITIES, L.L.C. DBA JOHNSON UTILITIES COMPANY**  
**DOCKET NO. WS-02987A-05-0695**

On September 30, 2005, Johnson Utilities, L.L.C. dba Johnson Utilities Company, ("Johnson") filed an application for approval to extend the area of its Certificate of Convenience and Necessity ("CC&N"). The requested area is one section of land, approximately 640 acres, upon which the developments known as Silverado Ranch and Skyline View Estates will be located.

Johnson currently has pending some compliance issues being addressed in other dockets. Staff believes that once the issues related to non-compliance with previous Commission decisions are resolved, Johnson should be found to be a fit and proper entity to serve the extension area and that it would be in the public interest for the Commission to approve this application and adopt certain requirements of the Company.

Staff recommends that the Company be ordered to charge its current rates to the customers in the extension area until the rates and charges are changed by Commission order.


Staff recommends that the Commission require Johnson to file the following as compliance items in this docket and by the recommended date:


1. A copy of its amended or updated Designation of Assured Water Supply from Arizona Department of Water Resources ("ADWR") to include the service area at issue within one year of the effective date of the final decision in this matter.
2. Copies of its Aquifer Protection Permit and Section 208 Plan amendments which indicate approval of the expansion of the Section 11 wastewater treatment plant to 2.0 million gallons per day ("MGD") within two years of the final decision in this matter. The Company should file the same for the Copper Basin plant within two years.
3. Copies of the Arizona Department of Environmental Quality ("ADEQ") Approval to Construct for water facilities needed to serve the requested extension area within two years of the final decision in this matter.
4. Copies of the ADEQ Approval to Construct for wastewater facilities needed to serve the requested extension area within two years of the final decision in this matter.

Staff further recommends that if Johnson does not comply with the recommendations listed above, that the decision approving this extension, after due process, be null and void.

## STAFF ACKNOWLEDGEMENT

The Staff Report for Johnson Utilities, L.L.C. dba Johnson Utilities Company, Docket No. WS-02987A-05-0695, was prepared by the Staff members listed below. Linda Jaress performed the review and analysis of the Company's application and Marlin Scott, Jr. performed the engineering analysis.

  
\_\_\_\_\_  
Linda A. Jaress  
Executive Consultant III

  
\_\_\_\_\_  
Marlin Scott, Jr.  
Utilities Engineer

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>Introduction.....</b>	<b>1</b>
<b>The Water System.....</b>	<b>1</b>
<b>Financing and Capital Structure – Water .....</b>	<b>1</b>
<b>Arizona Department of Environmental Quality (“ADEQ”) – Water .....</b>	<b>1</b>
<b>Arizona Department of Water Resources (“ADWR”) .....</b>	<b>1</b>
<b>Wastewater System.....</b>	<b>2</b>
<b>Financing and Capital Structure – Wastewater .....</b>	<b>2</b>
<b>Arizona Department of Environmental Quality – Wastewater.....</b>	<b>2</b>
<b>Arizona Corporation Commission .....</b>	<b>2</b>
<b>Conclusions and Recommendations .....</b>	<b>3</b>

## EXHIBITS

Amended Legal Description .....	1
Engineering Report .....	2

## **Introduction**

Johnson Utilities, L.L.C. dba Johnson Utilities Company ("Johnson" or "the Company") provides water and wastewater service to approximately 9,200 water and sewer customers in various portions of Pinal County within the vicinity of Queen Creek and the town of Florence. On September 30, 2005, Johnson filed an application for approval to extend the area of its Certificate of Convenience and Necessity ("CC&N"). The requested area is one section of land, approximately 640 acres, upon which the developments known as Silverado Ranch and Skyline View Estates will be located. Attached as Exhibit 1 is a map and legal description of the proposed service territory.

## **The Water System**

The proposed area will be served by two of Johnson's three water systems, the Sun Valley and Johnson Systems, which were recently interconnected. The Company will be interconnecting the third system later this year. The total production capacity of the Company's twelve wells is 5,082 gallons per minute. Johnson's water system is also comprised of booster pumps, pressure tanks, a distribution system and approximately 4 million gallons of storage capacity. The Company is in the process of interconnecting its three water systems which will provide flexibility and improve reliability. Staff concludes that the modified system has adequate production and storage capacity to serve the existing and proposed CC&N area. Attached as Exhibit 2 is Staff's Engineering Report which describes Johnson's water system and capacity in further detail.

## **Financing and Capital Structure – Water**

The Company has submitted a cost analysis which anticipates that the cost of additional plant to provide water service in the extension area will total \$2.7 million. The water facilities for this extension will be funded by advances in aid of construction and offsite facility hookup fees. Staff concludes that the cost estimates seem reasonable but is not making a "used and useful" determination at this time.

## **Arizona Department of Environmental Quality ("ADEQ") – Water**

ADEQ has determined that Johnson's water system is currently delivering water that meets water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4. All of Johnson's wells deliver water which is in compliance with the new arsenic standard of 10 parts per billion.

## **Arizona Department of Water Resources ("ADWR")**

Johnson is located within the Phoenix Active Management Area. Staff recommends that Johnson file the updated or amended Designation of Assured Water Supply to include the service area at issue within one year of the effective date of the final decision in this matter.

## **Wastewater System**

The proposed extension area will be served by the Section 11 System, one of Johnson's three wastewater systems. Based upon the Company's application, it is anticipated that Johnson could be serving approximately 2,100 laterals in the proposed extension area at the end of five years. The initial flow of wastewater from the extension area will go to the Section 11 wastewater treatment plant but eventually will go to a proposed Copper Basin plant. Staff concludes that Johnson has and will have wastewater treatment capacity to serve the exiting customers and customers within the proposed CC&N extension area within the five year planning period. Exhibit 2, attached, further supports this conclusion.

## **Financing and Capital Structure – Wastewater**

The Company expects that the costs of the facilities to provide wastewater service to the extension area will be \$2.7 million. Those facilities will be funded by advances in aid of construction and offsite facility hookup fees. Staff concludes that the cost estimates seem reasonable but is not making a "used and useful" determination at this time.

## **Arizona Department of Environmental Quality – Wastewater**

ADEQ has determined that the Section 11 wastewater system is in compliance with ADEQ regulations.

The Company was issued an Aquifer Protection Permit ("APP") in 1998 for its 1.6 Million Gallon per Day ("MGD") Section 11 wastewater treatment plant and the Company is preparing an application to amend its APP to expand the plant to 2.0 MGD.

## **Arizona Corporation Commission**

The 14 complaints against Johnson which were logged by the Arizona Corporation Commission's ("the Commission") Consumer Services Section in 2005 and 2006 have been resolved.

Johnson is currently out of compliance with Commission decisions. In Decision No. 65840, dated April 22, 2003, the Commission ordered Johnson to file with the Commission a copy of any Notice of Violation ("NOV") issued against it by ADEQ within seven days from receipt of such notice. The Decision goes on to state that if the ADEQ notice is not timely filed, "...the Director shall, upon becoming aware of such failure, commence an Order to Show Cause Proceeding against JUC forthwith, seeking such sanctions and Orders as the Director deems appropriate." On January 10, 2006, Staff was made aware of a late filing of a NOV by Johnson. Staff further researched the docket and found three similar violations. In each case, Johnson's filing of its NOV exceeded the timeframe directed in this order. Johnson has offered its explanation. Nevertheless, to be consistent with the order, Staff has filed a complaint and petition for an order to show cause against Johnson on March 27, 2006.



Also, Decision No. 68235, Decision No. 68236, and Decision No. 68237, all dated October 25, 2005, contained language requiring Johnson to file a \$500,000 bond. In substitution for the bond, Johnson has filed evidence of a letter of credit for the same amount. The late filing of the NOV's along with the substitution of a letter of credit for the bond, causes Johnson to be out of compliance with Commission decisions. On March 14, 2006, Johnson filed an application to amend Decision Nos. 68235, 68236, and 68237. Pending resolution of the compliance issues and Johnson's March 14<sup>th</sup> filing, Staff recommends that a decision approving the extension at issue be withheld.

The previously mentioned decisions contained language requiring Johnson to file quarterly reports relating to the status of the pending La Osa and Sonoran litigation and to file Affiliate Interest reports and a rate case. The decisions also required the \$500,000 performance bond to be increased to \$1.0 million if Johnson is named as a defendant in either the La Osa or Sonoran lawsuits. Staff does not believe it necessary to repeat those requirements in this docket as the result would be duplicative filing in an additional docket. However, Staff believes that those requirements as set forth in previous decisions should remain in place even if not imposed as a specific condition for approval of this application.

### **Conclusions and Recommendations**

Staff believes that once the issues related to non-compliance with previous Commission decisions are resolved, Johnson should be found to be a fit and proper entity to serve the extension area and that it would be in the public interest for the Commission to approve this application and adopt certain requirements of the Company.

Staff recommends that the Company be ordered to charge its current rates to the customers in the extension area until the rates and charges are changed by Commission order.

Staff recommends that the Commission require Johnson to file the following as compliance items in this docket and by the recommended date:

1. A copy of its amended or updated Designation of Assured Water Supply from ADWR to include the service area at issue within one year of the effective date of the final decision in this matter.
2. Copies of its Aquifer Protection Permit and Section 208 Plan amendments which indicate approval of the expansion of the Section 11 wastewater treatment plant to 2.0 MGD within two years of the final decision in this matter. The Company should file the same for the Copper Basin plant within two years.
3. Copies of the ADEQ Approval to Construct for water facilities needed to serve the requested extension area within two years of the final decision in this matter.

4. Copies of the ADEQ Approval to Construct for wastewater facilities needed to serve the requested extension area within two years of the final decision in this matter.

Staff further recommends that if Johnson does not comply with the recommendations listed above, that the decision approving this extension, after due process, be null and void.

## MEMORANDUM

TO: Linda Jaress  
Executive Consultant III  
Utilities Division

FROM: Barb Wells *bw*  
Information Technology Specialist  
Utilities Division

THRU: Del Smith *DS*  
Engineering Supervisor  
Utilities Division

DATE: October 19, 2005

RE: **JOHNSON UTILITIES, L.L.C. (DOCKET NO. WS-02987A-05-0695)**

The area requested by Johnson for an extension for water and wastewater has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

Also attached is a copy of the map for your files.

:bsw

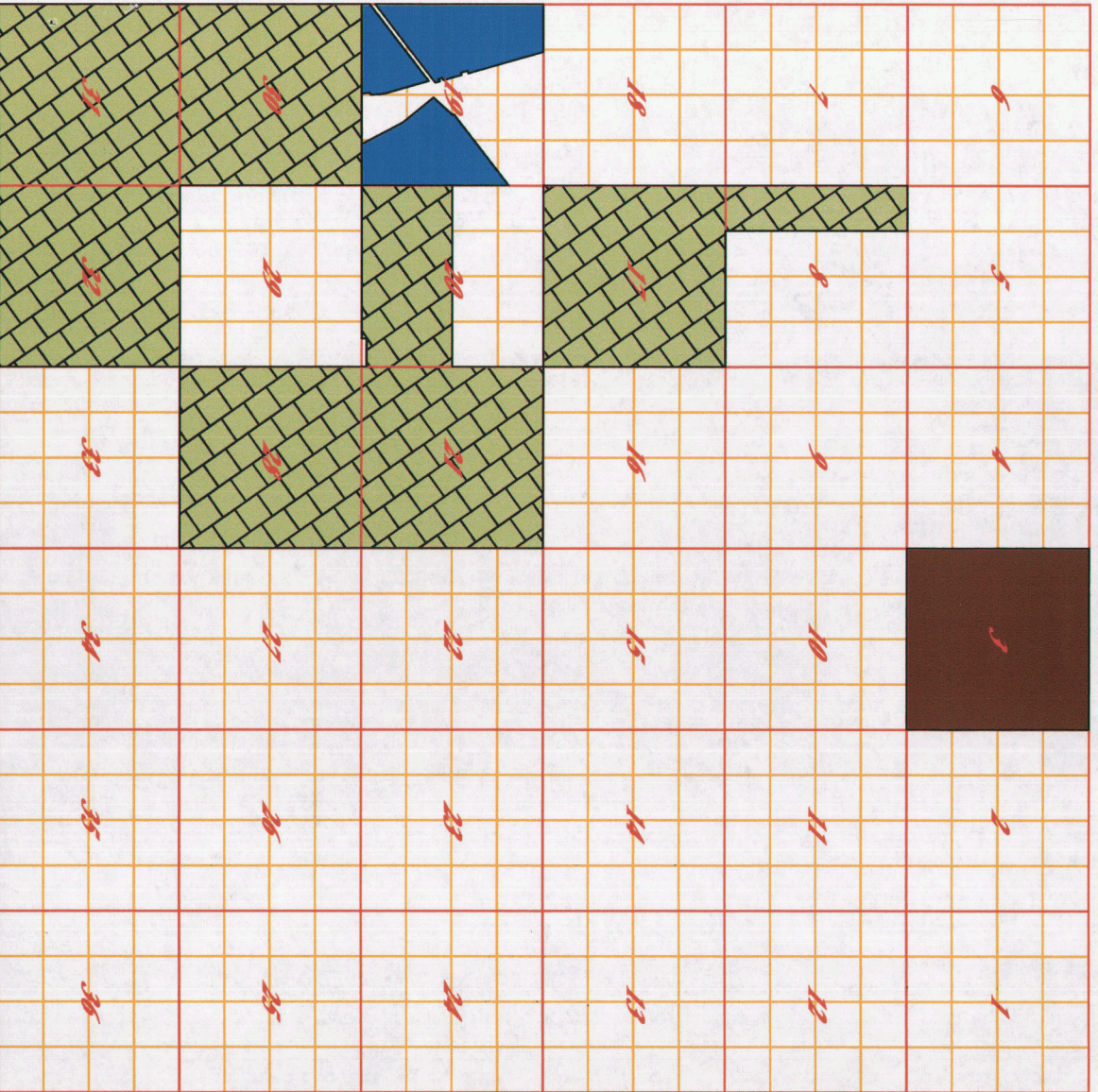
### Attachments

cc: Docket Control  
Mr. Richard Sallquist  
Ms. Deb Person (Hand Carried)  
File



# GOODYEAR Pinal

**RANGE 9 East**



**TOWNSHIP 3 South**



WS-2987 (6)

Johnson Utilities Company



Sewer



Johnson Utilities Company

Docket No. WS-02987A-04-0288

Application for Extension for Water & Sewer



Johnson Utilities Company

Docket No. WS-02987A-05-0695

Application for Extension for Water & Sewer




**Legal Description of the Requested Area**

ALL OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 9 EAST OF THE GILA AND  
SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA

## MEMORANDUM

DATE: March 24, 2006

TO: Linda Jaress  
Executive Consultant III

FROM: Marlin Scott, Jr.   
Utilities Engineer

RE: Johnson Utilities Company – Water and Wastewater Divisions  
Docket No. WS-02987A-05-0695 (CC&N Extension)

---

### **Introduction**

Johnson Utilities L.L.C. dba Johnson Utilities Company ("Company") has applied to extend its Certificate of Convenience and Necessity ("CC&N") for its water and wastewater divisions. The requested area will add one square-mile or 640 acres to the Company's existing 61.5 square-miles of water certificated area and 73.0 square-miles of wastewater certificated area to provide service to the proposed developments known as Silverado Ranch and Skyline View Estates. The Company serves a community between Queen Creek and Florence in Pinal County.

### **Capacities**

#### Existing Water Utility Plants

The Company operates three water systems; Johnson (Public Water System (PWS) #11-128), Sun Valley (PWS #11-116), and Wildhorse (PWS #245) Systems. The requested area will be served by the Johnson and Sun Valley Systems which were recently interconnected. According to water use data submitted by the Company, the Company has 12 wells producing 5,802 gallons per minute ("GPM"), 3.97 million gallons of storage capacity, and distribution system serving approximately 14,000 service connections. The Company will be interconnecting the third system, Wildhorse System, to the modified Johnson System later this year.

Based on historical growth rates, it is anticipated that the existing entire water service area could grow to approximately 21,000 connections at the end of five years. The Company has predicted an additional 2,108 connections for the proposed CC&N extension at the end of five years, resulting in a projected total customer base of approximately 23,110 at the end of five years. Based on the existing well production and

storage capacities, the modified Johnson System can serve approximately 20,700 service connections.

#### Existing Wastewater Utility Plants

The Company operates three wastewater systems; Section 11, Precision and Pecan Systems. The requested area will be served by the Section 11 System consisting of a 1.6 million gallon per day ("MGD") extended aeration and aerobic lagoon treatment plant. (Since the Company reported all three systems' number of lift stations, lineal feet of force/collection mains and customer count as one system, separate system inventory was not available.)

Based on historical growth rates, it is anticipated that the existing entire wastewater service area could grow to approximately 21,000 laterals at the end of five years. In this application, the Company has predicted an additional 2,108 laterals for the proposed CC&N extension at the end of five years, resulting in a projected total customer base of approximately 23,110 laterals at the end of five years. Based on the existing Section 11 treatment plant capacity, the system can serve approximately 9,200 service laterals.

#### Proposed Water and Wastewater Plant Facilities

The Company anticipates the costs to serve the new area in the next five years to reach \$5,531,077. The facilities for this area will be constructed as needed. The development will be funded through advances in aid of construction and hook-up fees to construct the following facilities:

1. Water off-site plant facilities	\$ 668,150
2. Water on-site plant facilities	\$2,083,900
3. Wastewater off-site plant facilities	\$ 736,177
4. Wastewater on-site plant facilities	\$2,042,850

Total: \$5,531,077

The wastewater flow from this development will initially go to the Section 11 wastewater treatment plant ("WWTP") and will ultimately go to a proposed Copper Basin WWTP that will have a capacity of 3.0 MGD. The Aquifer Protection Permit for the Section 11 WWTP is permitted for a capacity of 1.6 MGD and is currently being amended to be increased to 2.0 MGD.

#### Conclusions

Staff concludes that the Company's existing water and wastewater systems will have adequate well production, storage and wastewater treatment capacities to serve the existing customers and proposed CC&N extension area within a conventional five year

planning period and can reasonably be expected to develop additional production, storage and wastewater treatment as required in the future.

Staff concludes that the proposed water and wastewater plant facilities for the proposed development and its cost estimate totaling \$5,531,077 seem reasonable. However, no "used and useful" determination of the proposed water and wastewater plant facilities was made and no particular treatment should be inferred for rate making or rate base purposes.

### **Arizona Department of Environmental Quality ("ADEQ") Compliance**

#### Compliance Status

ADEQ regulates the Company's water and wastewater facilities under the following identification numbers:

1. Johnson Water System, PWS #11-128
2. Sun Valley Water System, PWS #11-116
3. Section 11 Wastewater Treatment Plant, Inventory #103081

Based on compliance information submitted by the Company, the above water systems had no deficiencies and ADEQ has determined these water systems are currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.

Based in the most current information available to ADEQ, ADEQ has indicated the Section 11 wastewater system is in compliance with ADEQ regulations.

#### Certificate of Approval to Construct

The ADEQ Certificates of Approval to Construct ("ATC") for water and wastewater facilities needed to serve the requested area have not been submitted by the Company. Staff recommends that the Company docket as a compliance item in this case within two years of the effective date of an order in this proceeding copies of the ATCs for water and wastewater facilities needed to serve the requested area issued by ADEQ.

#### Arsenic

The Company indicated its arsenic levels for its well source range from 2 parts per billion ("ppb") to 8 ppb. Based on these levels, the Company is in compliance with the new arsenic standard.



Aquifer Protection Permit ("APP") and Section 208 Plan Amendment

The Company was issued a signed APP, dated September 4, 1998, for its 1.6 MGD Section 11 wastewater treatment plant and is in the process of preparing an amendment for expansion of its WWTP from 1.6 to 2.0 MGD. Since an APP and the Section 208 Plan amendments represent fundamental authority for the designation of a wastewater service area and a wastewater provider, Staff recommends that the Company file with Docket Control, as compliance items in this docket within two years after a decision is issued in this proceeding, copies of the APP and Section 208 Plan amendments that indicate approval of the expansion of the WWTP to 2.0 MGD. Also, the Company should file the same for the Copper Basin plant within two years.

**Arizona Department of Water Resources Compliance**

Compliance Status

The Company is located within the Phoenix Active Management Area ("AMA") and is in compliance with its reporting and conservation requirements.

Designation of Assured Water Supply

The extension area is within the Phoenix AMA. As such, each developer will be required to demonstrate an assured water supply from ADWR for the entire development. Presently, the Company holds a "Designation of Assured Water Supply" for its existing service area. It is assumed that the Company will continue to elect this alternative. Therefore, Staff recommends that the Company shall update or amend its "Designation of Assured Water Supply" to include the service areas in this CC&N extension application. Staff further recommends that the Company docket as a compliance item in this case within one year of the effective date of an order in this proceeding a copy of such an amended ADWR certificate.

**Arizona Corporation Commission Compliance**

The Company is currently out of compliance with Commission decisions. The non-compliance issues are being addressed in another CC&N extension case in a Staff Report dated March 17, 2006, for Docket No. WS-02987A-04-0869.

**Curtailment Tariff**

The Company has an approved curtailment tariff that became effective on July 9, 2005.

## **Summary**

### Conclusions

- A. Staff concludes that the existing water and wastewater systems will have adequate source production, storage capacity and wastewater treatment capacity to serve the existing customers and proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional production, storage and wastewater treatment capacity as required in the future.
- B. Staff concludes that the proposed water and wastewater plant facilities for the proposed development and its cost estimate totaling \$5,531,077 seem reasonable. However, no "used and useful" determination of the proposed water and wastewater plant facilities was made and no particular treatment should be inferred for rate making or rate base purposes.
- C. ADEQ regulates the Company's water systems under PWS #11-128 and #11-116. Based on compliance information submitted by the Company, these systems had no deficiencies and ADEQ has determined that these systems is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.
- D. ADEQ regulates the Company's wastewater system under Inventory #103081 and has indicated the facility is in compliance with ADEQ regulations.
- E. The Company indicated its arsenic levels for its well source range from 2 to 8 ppb. Based on these levels, the Company is in compliance with the new arsenic standard.
- F. The Company is within the Phoenix AMA and is in compliance with its reporting and conservation requirements.
- G. The Company is currently out of compliance with Commission decisions. The non-compliance issues are being addressed in another CC&N extension case in a Staff Report dated March 17, 2006, for Docket No. WS-02987A-04-0869.
- H. The Company has an approved curtailment tariff that became effective on July 9, 2005.

### Recommendations

- 1. Staff recommends that the Company docket as a compliance item in this case within two years of the effective date of an order in this proceeding copies of the ATCs for water and wastewater facilities needed to serve the requested area issued by ADEQ.

2. Staff recommends that the Company shall update or amend its "Designation of Assured Water Supply" to include the service areas in this CC&N extension application. Staff further recommends that the Company docket as a compliance item in this case within one year of the effective date of an order in this proceeding a copy of such an amended ADWR certificate.
3. Staff recommends that the Company file with Docket Control, as compliance items in this docket within two years after a decision is issued in this proceeding, copies of the APP and Section 208 Plan amendments that indicate approval of the expansion of the Section 11 WWTP to 2.0 MGD. The Company should file the same for the Copper Basin plant within two years.